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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,086	08/20/2003	Ishay Rabinowitz	25646	4960

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NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

EXAMINER

HWU, DAVIS D

ART UNIT	PAPER NUMBER
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3752

MAIL DATE	DELIVERY MODE
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05/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/644,086

Applicant(s)

RABINOWITZ, ISHAY

Examiner

Davis D. Hwu

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 20 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-9, 11-17, 20 and 23-28 is/are rejected.
- 7) ☒ Claim(s) 3 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Response to Amendment

1. Applicant's arguments of March 22, 2007 have been entered.
2. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

4. Claims 1, 2, 4-8, 20, and 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckstein et al. (US Patent 5,615,838).

Eckstein et al. '838 shows a pipe 52 connectable to a pressurized fluid source via a first end of the pipe, the pipe comprising a drip irrigation plug emitter 20 mounted entirely within the pipe, the emitter having an inlet in fluid communication with the first end of the pipe, a drip outlet 40 in fluid communication with a second end of the pipe away from the emitter, and a flow restricting path 22 therebetween, the emitter plugging the pipe with respect to any fluid flow except through the flow restricting path 22. The emitter forms a swelling on the outer surface of the pipe (see Figure 3 at 52) as recited in claim

4. Regarding the extrusion recitations, whether a product is patentable depends on whether it is known in the art or it is obvious, and is not governed by whether the process by which it is made is patentable.

Claim Rejections - 35 USC § 103

5. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein et al. in view of Hunter.

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Hunter teaches a drip irrigation system comprising a filter 116 in the flow passageway to filter out particles and prevent clogging. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Eckstein et al. by incorporating a filter means upstream of the flow labyrinth as taught by Hunter to filter out particles before they enter and clog the labyrinth. Regarding claim 11, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

6. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein et al.

The method as recited would have been a matter of design choice depending on the required length of the pipe and irrigation coverage. Once those parameters have been determined, the number of emitters can be inserted at the required intervals. Regarding claim 13, it would have been obvious to one having ordinary skill in the art to cut a long pipe into sections to form various lengths of pipe as required. An emitter can be placed at the end of each section as recited in claim 14.

7. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein et al. in view of Christy.

Christy teaches an irrigation system comprising a pipe 11 having support stakes 16 to fix the pipe to the ground. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Eckstein et al. by providing a means for fixing the second of the pipe in a position relative to a plant as taught by Christy to prevent the pipe from inadvertent movement. Placing one end of


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the fixing means 16 into the pipe would have been a matter of design choice since it would still carry out the same function of fixing the pipe to the ground.

Allowable Subject Matter

8. Claims 3 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis D. Hwu whose telephone number is 571-272-4904. The examiner can normally be reached on 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.


DAVIS HWU
PRIMARY EXAMINER